

REMARKS/ARGUMENTS

Claims 1, 4, 11-13, 16-19, 22-26, 42 and 43 have been amended and new claims 44-47 have been added. Claims 1-4, 11-26, 28, 29, 33, 34, 38, 39, and 42-47 are pending in the present application, of which claims 1, 4, 13, 17, 19, 23, 25, 26 and 42-47 are the independent claims. Applicant believes that the present application is in condition for allowance, for which prompt and favorable action is respectfully requested.

Independent claims 1 and 19 have each been amended to further define the forward link common channel as a common channel that the apparatus shares with at least one remote station. Independent claims 4, 13, 17, 23, 25, 26, 42 and 43 have each been amended to further define the forward link common channel as a common channel that is shared by a plurality of remote stations. Support for the amendments can be found, for example, in paragraphs [1033], [1032] and [1035] of the originally-filed application. No new matter is believed to have been added.

Allowable Subject Matter

Applicant appreciates the indication that claims 11, 12, 16, 18, 22 and 24 would be allowable if rewritten into independent form including all of the limitations of the base claim and any intervening claims.

Claims 11, 12, 16, 18, 22 and 24 have each been amended into independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicant submits that claims 11, 12, 16, 18, 22 and 24 are in condition for allowance.

Claim Rejections – 35 USC § 102

Claims 1-4, 13-15, 17, 19-21, 23, 25, 26, 28, 29, 33, 34, 38 and 39¹ were rejected under 35 U.S.C. § 102(b) as being anticipated by Tiedemann (U.S. 6,396,867). Reconsideration and withdrawal of this rejection are respectfully requested.

Applicant respectfully reminds the Examiner that according to MPEP § 2131 “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (emphasis added). Applicant also

¹ Applicant assumes that the Examiner meant to include claims 42 and 43 in the § 102 rejection since the Examiner addressed these claims in the discussion of the § 102 rejection on pages 4 and 5 of the Office Action.

respectfully reminds the Examiner that in order to “establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities.” See MPEP § 2112 (IV).

Independent claims 4, 13, 17, 23, 25, 26, 42 and 43 each includes the features of receiving or transmitting a forward link power control instruction on a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations. Tiedemann is not seen to teach or suggest at least the features of receiving or transmitting a forward link power control instruction on a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations.

The Office Action cited col. 7, lines 19-26, col. 7, lines 50-59 and col. 8, 46-63 of Tiedemann as allegedly disclosing “a forward link common channel.” See pages 2 and 3 of the Office Action. In col. 7, lines 19-26, Tiedemann discloses determining “the quality of the forward link signal, as received by the remote station, by measuring the amplitude of the reverse link power control bits which are transmitted on the forward traffic channel.” In col. 7, lines 50-59, Tiedemann discloses the remote station requesting the base station to adjust the forward link transmit power by sending power control bits over the reverse link. In col. 8, lines 43-63, Tiedemann discusses the encoder 22 in the base station 4 with reference to Figures 2 and 3 of Tiedemann. However, nowhere in these cited passages does Tiedemann disclose receiving or transmitting a forward link power control instruction on a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations, as recited in independent claims 4, 13, 17, 23, 25, 26, 42 and 43.

In its contention that Tiedemann discloses a forward link common channel, the Office Action dated March 4, 2010 stated:

The examiner points the applicant to Col. 7 line 32-44, specifically wherein the ability for users to receive power control bits from multiple base stations. By being able to receive such power control bits from multiple base stations, multiple users are able to receive such power control information from the network simultaneously.

See page 4 of the Office Action dated March 4, 2010.

Applicant respectfully submits that col. 7, lines 32-44 of Tiedemann does not disclose receiving or transmitting a forward link power control instruction on a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations, as recited in independent claims 4, 13, 17, 23, 25, 26, 42 and 43. To begin, col. 7, lines 32-44 of Tiedemann clearly does not expressly disclose a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations. Further, col. 7, lines 32-44 of Tiedemann does not inherently disclose a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations. This is because it does not necessarily follow from the fact that multiple remote stations receive power control information from a network that the multiple remote stations receive their respective power control bits from a forward link common channel that is shared by the remote stations. In a conventional network, multiple remote stations receive their respective power control bits from the network on separate individual control channels, and not on a forward link common channel that is shared by the remote stations. Nowhere in the cited passages does Tiedemann disclose multiple remote stations receiving their power control bits on a forward link common channel that is shared by the remote stations rather than separate individual channels.

For at least the reasons given above, Applicant submits that Tiedemann does not disclose, either expressly or inherently, the features of receiving or transmitting a forward link power control instruction on a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations, as recited in independent claims 4, 13, 17, 23, 25, 26, 42 and 43, and therefore fails to anticipate independent claims 4, 13, 17, 23, 25, 26, 42 and 43.

Independent claims 1 and 19 each includes the features of an apparatus receiving a forward link power control instruction on a forward link common channel wherein the apparatus shares the forward link common channel with at least one remote station. Tiedemann is not seen to disclose the above features of claims 1 and 19 for similar reasons given above for independent claims 4, 13, 17, 23, 25, 26, 42 and 43.

Therefore, Tiedemann fails to anticipate independent claims 1, 4, 13, 17, 19, 23, 25, 26, 42 and 43. Further, Tiedemann is disqualified under 35 USC § 103(c) from being used as prior art in an § 103 rejection, as demonstrated in Applicant's previous response dated April 26, 2010.

For at least the reasons given above, Applicant submits independent claims 1, 4, 13, 17, 19, 23, 25, 26, 42 and 43 are allowable, and respectfully requests that the rejection of claims 1, 4, 13, 17, 19, 23, 25, 26, 42 and 43 be withdrawn.

The other rejected claims currently under consideration in the application are dependent from their respective independent claims discussed above and therefore are believed to be allowable over the applied references for at least similar reasons. Because each dependent claim is deemed to define an additional aspect of the invention, the individual consideration of each on its own merits is respectfully requested. Reconsideration and withdrawal of the rejections of the dependent claims are respectfully requested.

New claims

New independent claims 44 and 45 each includes features similar to those of claim 12, which the Examiner indicated would be allowable if rewritten into independent form, and are therefore allowable for at least the same reasons given for claim 12 above.

New independent claims 46 and 47 each includes features similar to those of claim 11, which the Examiner indicated would be allowable if rewritten into independent form, and are therefore allowable for at least the same reasons given for claim 11 above.

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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